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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,905	09/20/2005	Dionysios Papaioannou	602005.2	7153
25570 7590 07/20/2007 ROBERTS, MLOTKOWSKI & HOBBS P. O. BOX 10064 MCLEAN, VA 22102-8064			EXAMINER JARRELL, NOBLE E	
			ART UNIT 1624	PAPER NUMBER
			MAIL DATE 07/20/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10549905	9/20/2005	PAPAIOANNOU ET AL.	602005.2

ROBERTS, MLOTKOWSKI & HOBBS
P. O. BOX 10064
MCLEAN, VA 22102-8064

EXAMINER

Noble Jarrell

ART UNIT	PAPER
1624	20070716

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

This restriction replaces the restriction mailed out 3/14/2007, and hence the mresponse date will be retarted from the mailing date of this application.

Office Action Summary	Application No. 10/549,905	Applicant(s) PAPAIIOANNOU ET AL.	
	Examiner Noble Jarrell	Art Unit 1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2005.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-7 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 1-7 are pending in the current application.
2. This is a National Stage of PCT/ GR02/00045, filed 08/22/2002.

Election/Restrictions

3. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

Group I, claim 1-7, drawn to compounds, compounds, and methods wherein variables as R^1 , R^3 , R^4 , R^5 , or R^6 as defined in claim 1 and the polyamine is chosen from section A or D of claim 1.

Group II, claim 1-7, drawn to compounds, compounds, and methods wherein variables as R^1 , R^3 , R^4 , R^5 , or R^6 as defined in claim 1 and the polyamine is chosen from section B of claim 1.

Group III, claim 1-7, drawn to compounds, compounds, and methods wherein variables as R^1 , R^3 , R^4 , R^5 , or R^6 as defined in claim 1 and the polyamine is chosen from section C of claim 1.

Group IV, claim(s) 1-5, 11, drawn to compounds and compositions wherein variable R is defined as R^2 as defined in claim 1 and the polyamine is chosen from section A or D of claim 1.

Group V, claim(s) 1-5, 11, drawn to compounds and compositions wherein variable R is defined as R^2 as defined in claim 1 and the polyamine is chosen from section B of claim 1.

Group VI, claim(s) 1-5, 11, drawn to compounds and compositions wherein variable R is defined as R^2 as defined in claim 1 and the polyamine is chosen from section C of claim 1.

The inventions listed as Groups I-VI do not relate to a single general inventive concept under PCT Rule 13.1 because under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

(f) "Markush practice" The situation involving the so-called Markush practice wherein a single claim defines alternatives (chemical or non-chemical) is also governed by PCT Rule 13.2. In this special

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situation, the requirement of a technical interrelationship and the same or corresponding special technical features as defined in PCT Rule 13.2, shall be considered to be met when the alternatives are of a similar nature.

(i) When the Markush grouping is for alternatives of chemical compounds, they shall be regarded as being of a similar nature where the following criteria are fulfilled:

(A) All alternatives have a common property or activity; and

(B) (1) A common structure is present, i.e., a significant structural element is shared by all of the alternatives; or

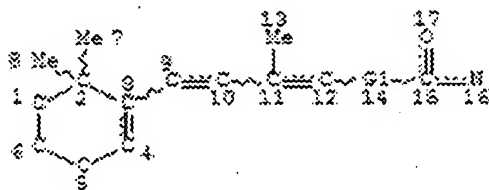
(B) (2) In cases where the common structure cannot be the unifying criteria, all alternatives belong to a recognized class of chemical compounds in the art to which the invention pertains.

In paragraph (f)(i)(B)(1), above, the words "significant structural element is shared by all of the alternatives" refer to cases where the compounds share a common chemical structure which occupies a large portion of their structures, or in case the compounds have in common only a small portion of their structures, the commonly shared structure constitutes a structurally distinctive portion in view of existing prior art, and the common structure is essential to the common property or activity. The different groups for variable R and the polyamine result in compounds that have achieved a different status in the art, and thus are drawn to an improper Markush group on the grounds of lack of a common nucleus. Thus lack of unity is apparent.

A preliminary search of a selected core gave numerous iterations, see below:

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=> d que sta 12
L1          STR
```



```
REP G1=(0-4) C
MODE ATTRIBUTES:
DEFAULT MLEVEL IS ATOM
DEFAULT ELEVEL IS LIMITED
```

```
GRAPH ATTRIBUTES:
RING(S) ARE ISOLATED OR EMBEDDED
NUMBER OF NODES IS 17
```

```
STEREO ATTRIBUTES: NONE
L2          31 SEA FILE=REGISTRY 332 62M L1
```

```
100.0% PROCESSED      266 ITERATIONS
SEARCH TIME: 00.00.01
```

31 ANSWERS

```
FULL FILE PROJECTIONS:  ONLINE  **COMPLETE**
                        BATCH   **COMPLETE**
PROJECTED ITERATIONS:    4342 TO    6298
PROJECTED ANSWERS:       266 TO    934
```

Thus it is clear that applicant's compound core is not applicant's contribution over the prior art and the commonly shared structure does not constitute a structurally distinctive portion in view of the existing prior art. Thus there is a lack of unity.

A prior art reference anticipating the claims with respect to one group would not render obvious the same claims with respect to another group. Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103 (a) of the other invention.

4. Inventions I-VI are patentably distinct. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects

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(MPEP § 802.01 and § 806.06). In the instant case, the different inventions each require different structural queries and can be classified differently. Since polyamines under section A and D of claim 1 are both linear polyamines, they require different structural queries when the polyamine is chosen from section B or C. Section B polyamines have a cyclic group embedded in the polyamine chain and can be classified depending upon which linker is chosen (if the chain involves a furan ring, it can be classified as class 549, subclass 439), they are mutually exclusive of the polyamine linkers of sections A, C, and D. Section C polyamines contain 8-membered rings with at least one nitrogen, which classifies these molecules in class 540, subclass 450. Polyamines of sections A and D can be classified under class 564, subclass 123. Inventions I-III require a separate structural query than inventions IV-VI because the terminal ring is different for each group. For inventions I-III, the terminal ring is 1,2-cyclohexene and in inventions IV-VI, the terminal ring is phenyl. Thus, a search burden exists to search all of the claimed possibilities of claim 1 together.

Claim 1 is generic to the following disclosed patentably distinct species: groups I-VI. The species are independent or distinct because as disclosed the different species have mutually exclusive characteristics for each identified species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

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Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

Applicant is advised that the reply to this requirement to be complete must include the invention to be examined. Applicant is advised that in addition to the election requirement a reply must include an identification all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an

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election. If claims are added after the election, applicant must indicate which are readable upon the elected invention. The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusions

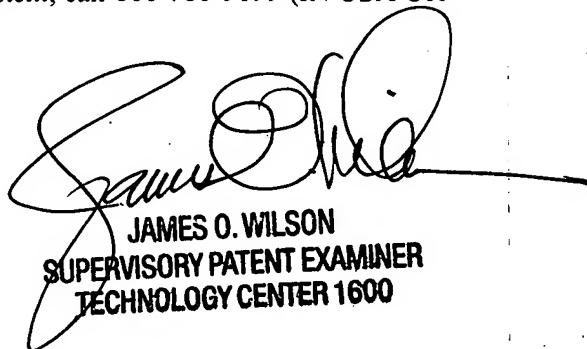
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Noble Jarrell whose telephone number is 571 (272) 9077. The examiner can normally be reached on Mon-Fri 7:30 A.M.-6:00 P.M EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. James O. Wilson can be reached on (571) 272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Noble Jarrell /NJ/



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SUPERVISORY PATENT EXAMINER
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